



California Regional Water Quality Control Board

Santa Ana Region



Linda S. Adams
Secretary for
Environmental Protection

3737 Main Street, Suite 500, Riverside, California 92501-3348
Phone (951) 782-4130 • FAX (951) 781-6288 • TDD (951) 782-3221
www.waterboards.ca.gov/santaana

Arnold Schwarzenegger
Governor

March 1, 2010

Nardy Khan
Department of Public Works
County of Orange
300 North Flower Street
Santa Ana, CA 92702

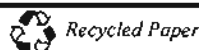
**CLEAN WATER ACT SECTION 401 WATER QUALITY STANDARDS
CERTIFICATION FOR THE RETROFITTING OF CORRUGATED METAL PIPING
WITHIN SANTIAGO CREEK (E08) AT THE ARIZONA-STYLE CROSSING
DOWNSTREAM FROM VILLA PARK DAM, ORANGE COUNTY (SARWQCB
REFERENCE NO. 302009-49) (ACOE REFERENCE NO. NOT AVAILABLE)**

Dear Ms. Khan:

On November 19, 2009, we received an application for Clean Water Act Section 401 Water Quality Standards Certification (Certification), submitted on your behalf by RBF Consulting, for retrofitting the existing Arizona crossing of Santiago Creek below Villa Park Dam, unincorporated Orange County, and raising the current crossing elevation by 2.5 feet. This letter responds to your request for certification that the proposed project, described in your application and summarized below, will comply with State water quality standards outlined in the Water Quality Control Plan for the Santa Ana River Basin (1995) and subsequent Basin Plan amendments:

Project Description: The project consists of raising the Arizona crossing approximately 2.5 feet and aiding creek flows beneath the crossing. Project components include: removing existing 18-24-inch corrugated metal pipes (CMP) underneath the existing crossing within Santiago Creek (E08), downstream of Villa Park Dam, leveling the existing crossing to a smooth grade and laying three 18-foot sections of 28-inch by 20-inch squash CMPs, within the creek, parallel to creek flows and perpendicular to the creek crossing, to allow for unrestricted water flows. Approximately 37 cubic yards of fill material (a combination of soil and gravel) will be placed on top of the sections of pipe to build a new 13-foot wide crossing. The

California Environmental Protection Agency



proposed activities will relieve the build up of sediment and vegetation downstream of the crossing, which has historically caused the water to rise and pond, making the crossing impassable at times. The work site is located within Section 19 of Township 4 South, Range 8 West, of the U.S. Geological Survey *Orange County, California*, 7.5-minute topographic quadrangle map (33 deg. 48 min. 50 sec. N/ - 117 deg. 46 min. 00 sec. W).

Receiving water: Santiago Creek.

Fill area: 0.01 acre of permanent and 0.05 acre of temporary impact to streambed (48 linear feet total).

Dredge volume: Not applicable.

Federal permit: U.S. Army Corps of Engineers Nationwide Permit No. 14.

Should the proposed project impact state- or federally-listed endangered species or their habitat, implementation of measures identified in consultation with U.S. Fish and Wildlife Service and the California Department of Fish and Game will ensure those impacts are mitigated to an acceptable level. Appropriate BMPs will be implemented to reduce construction-related impacts to Waters of the State according to the requirements of Order No. R8-2009-0030, commonly known as the Orange County Municipal Storm Water Permit.

You have applied for a Nationwide Permit from the U.S. Army Corps of Engineers in compliance with Section 404 of the Clean Water Act. Pursuant to the California Environmental Quality Act (CEQA), Orange County Public Works Orange County Public Works filed a Class 1 (CEQA Guidelines Section 15301) Categorical Exemption, which declares that the project consists of the reconstruction of existing facilities where the new facilities will be located on the same site as the facilities replaced and will have substantially the same purpose and capacity as the facilities replaced related to: (c) the reconstruction of existing utility facilities involving negligible or no expansion of capacity. The Regional Board has considered the County's Categorical Exemption in the issuance of this Certification and finds that no changes or alterations to the proposed project are necessary to avoid or mitigate impacts to water quality to a less than significant level.

This 401 Certification is contingent upon the execution of the following conditions:

- 1) The applicant must comply with the requirements of applicable Clean Water Act section 404 permits.
- 2) Best management practices used to stabilize disturbed soils against erosion must include, but are not limited to, seeding the area with an appropriate mix of native vegetation.

Under California Water Code, Section 1058, and Pursuant to 23 CCR §3860, the following shall be included as conditions of all water quality certification actions:

- (a) Every certification action is subject to modification or revocation upon administrative or judicial review, including review and amendment pursuant to Section §13330 of the Water Code and Article 6 (commencing with Section 3867) of this Chapter.
- (b) Certification is not intended and shall not be construed to apply to any activity involving a hydroelectric facility and requiring a FERC license or an amendment to a FERC license unless the pertinent certification application was filed pursuant to Subsection §3855(b) of this Chapter and that application specifically identified that a FERC license or amendment to a FERC license for a hydroelectric facility was being sought.
- (c) Certification is conditioned upon total payment of any fee required under this Chapter and owed by the applicant.

If the above stated conditions are changed, any of the criteria or conditions as previously described are not met, or new information becomes available that indicates a water quality problem, the Regional Board may require the applicant to submit a report of waste discharge and obtain Waste Discharge Requirements.

In the event of any violation or threatened violation of the conditions of this certification, the holder of any permit or license subject to this certification shall be subject to any remedies, penalties, process or sanctions as provided for under state law. For purposes of section 401(d) of the Clean Water Act, the applicability of any state law authorizing remedies, penalties, process or sanctions for the violation or threatened violation constitutes a limitation necessary to assure compliance with the water quality standards and other pertinent requirements incorporated into this certification. Violations of the conditions of this certification may subject the applicant to civil liability pursuant to Water Code section 13350 and/or 13385.

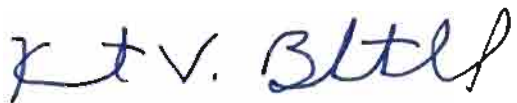
March 1, 2010

This letter constitutes a Water Quality Standards Certification issued pursuant to Clean Water Act Section 401. I hereby issue an order certifying that any discharge from the referenced project will comply with the applicable provisions of Sections 301 (Effluent Limitations), 302 (Water Quality Related Effluent Limitations), 303 (Water Quality Standards and Implementation Plans), 306 (National Standards of Performance), and 307 (Toxic and Pretreatment Effluent Standards) of the Clean Water Act, and with other applicable requirements of State law. This discharge is also regulated under State Water Resources Control Board Order No. 2003-0017-DWQ (Order No. 2003-0017-DWQ), "General Waste Discharge Requirements for Dredge and Fill Discharges That Have Received Water Quality Certification" which requires compliance with all conditions of this Water Quality Standards Certification. Order No. 200-0017-DWQ is available at:

www.waterboards.ca.gov/board_decisions/adopted_orders/water_quality/2003/wqo/wqo2003-0017.pdf

Should there be any questions, please contact Marc Brown at (951) 321-4584, or Mark Adelson at (951) 782-3234.

Sincerely,



for GERARD J. THIBEAULT
Executive Officer

cc (via electronic mail):

U. S. Army Corps of Engineers, Los Angeles Office – Mark Durham
Department of Fish and Game – Erinn Wilson
State Water Resources Control Board, Office of Chief Counsel – David Rice
State Water Resources Control Board, DWQ – Water Quality Certification Unit
U.S. EPA – Supervisor of the Wetlands Regulatory Office WTR- 8

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